

# Sociedad Venceslao Jaramillo

Post Office Box 1, El Rito NM 87530

October 18, 2015

Hon. Tim Keller  
State Auditor  
State of New Mexico  
2540 Camino Edward Ortiz, Suite A  
Santa Fe NM 87507-1508

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NOV 25 2015  
STATE AUDITOR  
Hand Delivered  
(HST)

Dear Auditor Keller:

The enclosed "white paper" developed by our civic organization should be self-explanatory. We are also sending a copy of this document with attachments to Attorney General Hector Balderas and to several members of the New Mexico Legislature.

As you will see at the close of many of the "item" synopses, we are seeking not only investigations on the part of your office and parallel efforts on the part of the attorney general, but also opinions from the attorney general in several instances. We understand that for the attorney general to issues opinions, the protocol may require a legislator to tender such requests to him.

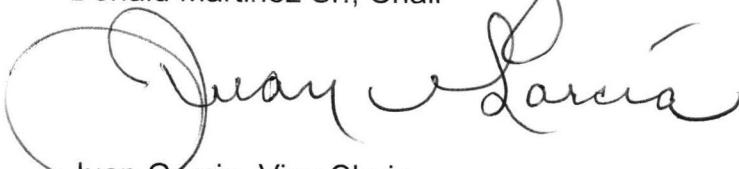
In separate letters from our members to the legislators, we are soliciting those officials to tender those requests for opinions to the attorney general on behalf of their constituents and/or individuals with whom they have a had working relationship regarding the affairs of state government, i.e. members of our organization. In the instance of the investigations we hope that you and the attorney general might initiate, we understand both of your offices could proceed on your own.

Best regards,

SOCIEDAD VENCESLAO JARAMILLO



Donald Martinez Sr., Chair



Juan Garcia, Vice Chair

Additional member-signatories of this letter include the individuals whose names appear on the following page.

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# Sociedad Venceslao Jaramillo

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Northern New Mexico College  
A State Educational Institution in Crisis

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## Preface

This “white paper” is the work product of the *Sociedad Venceslao Jaramillo* (Venceslao Jaramillo Society), a group of concerned citizens living in El Rito and other communities of Northern New Mexico. These citizens believe an emergency exists regarding the management and operations of Northern New Mexico College (Northern New Mexico State School).

These concerns involve not only the college’s operations in El Rito (the seat of the school as stated in the state constitution), but also the overall operations of the school including those at the Española campus of the institution where the executive offices are situated.

The society is dedicated to preserving and honoring Jaramillo’s vision of the institution, originally named the Spanish American Normal School, at the turn of the Twentieth Century, as well as the mission of the school through its evolution into a technical-vocational school and community college in the post-World War II era.

Jaramillo was an illustrious citizen of El Rito and elected official in the territorial and early statehood periods who had extensive land and other holdings across the state’s traditional “Hispanic Cradle.”

Jaramillo was a close associate of territorial governors Bradford Prince as well as U.S. Senator Bronson Cutting, whose political and financial support of the school was critical to its survival after Jaramillo’s untimely death at a young age, prior to which he had gained national prominence as a progressive Hispano statesman and educational benefactor.

Jaramillo was the joint donor of the land for the school’s “home” campus in El Rito and served on the school’s original board of regents. Jaramillo’s widow, Cleofas, was New Mexico’s “leading lady” of Hispanic letters and culture through her death in 1954.

The society membership produced this “white paper” and the attachments with the assistance of Flores, Arnold & Fiori, a research and consulting firm based in Rio Arriba County.

This firm is also the society’s communications agent and anyone wishing to learn more about the society’s positions or obtain additional details regarding the issues addressed herein may contact the society via e-mail in care of [FloresArnoldFiori@windstream.net](mailto:FloresArnoldFiori@windstream.net), via telephone at (575) 581-9520, or via the postal address on the letterhead above. The society’s officers and other members are readily available for productive and frank discussions with elected officials and/or those officials’ staff members.

## **General Statement**

Based on our research and analysis of numerous documents and other public-record data/news media accounts, recent developments involving Northern New Mexico College (NNMC) and the school's Board of Regents are ripe for scrutiny, and we call for formal investigations on the part of the New Mexico Attorney General and the New Mexico State Auditor.

We seek the assistance of state legislators in this regard and suggest that investigations by committees, permanent staff of the Legislature may also well be in order.

We also refer these officials to the attached exhibits, the referenced public record case files in several matters currently in litigation in state district court and the online content of the Northern New Mexico College Study Group ([www.northernnewmexicocollegestudygroup.com](http://www.northernnewmexicocollegestudygroup.com))

State senators and members of the House of Representatives could appropriately request that Attorney General Hector Balderas open investigations into several NNMC developments that may constitute violations of state statutes and/or request the attorney general to render formal opinions in regard to these same or related developments.

Individual society members are in the process of sending letters to a number of legislators, requesting them to seek formal opinions from the attorney general regarding interpretation of constitutional and statutory provisions pertinent to NNMC and the interests of the people of New Mexico.

Additionally, the society as a group directly calls upon the attorney general to open investigations into possible violations of the law involving the management, operations and finances of NNMC.

Some of these issues (as identified below) prompting our call for investigations by the attorney general are equally ripe for concurrent investigation by State Auditor Tim Keller and we call upon him to initiate such proceedings as well.

While the Board of Regents (BOR) of NNMC is an independent governing body (for instance: the removal of a regent, once appointed by the governor and confirmed by the Senate—other than by death or resignation—may only occur pursuant to a petition granted by the state supreme court, which has sole jurisdiction in this regard), the governor and her appointed officials exercise considerable oversight of NNMC via the Higher Education Department.

Legislators have a direct interest in the affairs of NNMC as legislative appropriations are a major source of funding for the school and the school is subject to numerous state statutes adopted by the Legislature, including specific directives regarding its missions and responsibilities.

## **NNMC Issues of Major Concern**

Item 1. Several inter-related questions regarding the legal site of the school, the legal name(s)—constitutional and “common convenience”—of the school, and residency requirements for members of the BOR according to the state constitution and statutory provisions as indicated below. (See attachments pertinent to the various sub-questions)

1-A--Is El Rito the legal seat of the college?

1-B--Does the cessation of NNMC instructional programs at El Rito violate any constitutional or statutory mandates?

1-C--Is operation of the campus in El Rito as a “conference center” (non-instructional programs conducted by non-NNMC entities or instructional programs conducted by other educational institutions that do not qualify for any course-credit accumulated by students enrolled at NNMC) consistent with the state constitutional and statutory controlling operations of NNMC?

1-D--Does the BOR have the legal power/authority to “change” the name of the school as stated in the constitution and statutes?

1-E--Does the circa 1903 deed of gift (or other conveyance) of approximately 20 acres of land in El Rito, donated to the Territory of New Mexico by Venceslao Jaramillo and George Sargent for purposes of establishing a territorial school for wayward boys (reform school), subsequently never used for that purpose but instead utilized for the establishment of the Spanish American Normal School via passage of a territorial statute, require that the land (and any improvements) revert to the donors (their estates/heirs) in the event that land is no longer used by the State of New Mexico for educational purposes?

1-F--Does the NNMC BOR have the unilateral authority/power to sell or otherwise dispose of the school's real property assets situated in El Rito without legislative approval and/or passage of a constitutional amendment by the voters?

1-G--Could the Northern New Mexico State School (statutory “common convenience name” of NNMC) be dissolved with all of its programs and assets transferred to the management and control of one or more of the other “constitutional” state educational institutions (such as NMHU, NMSU or UNM) via legislative action or would such action require—in the alternative—passage of a constitutional amendment?

1-H--Could such action, as outlined above, legally occur via resolution or other proceedings on the part of the respective BORs of NNMC and one of the other institutions mentioned above?

**We seek guidance of these interrelated issues/questions by the attorney general (via AG opinions requested by legislators).**

Item 2. Several interrelated questions regarding the expenditure of NNMC funds and other actions related to the NNMC BOR's unilateral "name change.

2-A--Did any misuse of NNMC funds occur pursuant to the putative usurpation of constitutional prerogatives (approval of a constitutional amendment by the voters) and/or legislative authority on the part of the BOR via its purported change of the school's name and subsequent use of such funds in advertising/promulgating this purported name-change to the public and various public and private entities?

2-B--We believe a violation of the state Open Meetings Act by the NNMC BOR on 4/23/15 may have occurred by virtue of the discussion of the NNMC "name-change matter" in closed (executive session). The statute does not provide an exclusions to the open-meetings mandate for the discussion of such a matter.

After coming out of executive session at that meeting, the BOR took action on the abortive name-change by having BOR president Chayo Garcia read a statement effectively rescinding the BOR's prior name-change resolution. The reading of the statement composed during the executive session occurred pursuant to the agenda item for action on matters discussed during the executive session.

(See attachments.)

**We seek resolution of these interrelated issues by both the attorney general (investigations and opinions as requested by legislators) and the state auditor (investigations).**

**We request vigorous enforcement of the Open Meetings statute by the attorney general in this regard.**

Item 3. Is NNMC in violation of several state statutes regarding the scope of instruction and the directed missions of NNMC, according to the statutes, by the elimination of the vast majority of vocational and technical instruction programs formerly offered at the campus in El Rito and the campus in Española and thereby failing to serve the educational needs of students in the Northern New Mexico region?

(See attachments.)

**We seek resolution of this issue by the attorney general (opinion as requested by legislators).**

Item 4. Has any criminal conduct or tort violation occurred on the part of NNMC administrators as alleged in four pending state district court whistleblower lawsuits and one settled federal lawsuit?

Those civil actions are:

D-117-CV-201400218 (James Biggs v. NNMC)

D-117-CV-201400278 (Angelo Jacques v. NNMC)

D-117-CV-201500094 (Patricia Perea v. NNMC)

D-117-CV-201500169 (Melissa Velasquez v. NNMC)

1:13-cv-00193-RB-KK (Nancy O'Rourke v. NNMC)

The four state District Court cases are whistleblower actions under New Mexico law.

The nearly simultaneous filing of four different whistleblower tort actions naming one small college as the defendant and referencing the same high-ranking college administrators at that college is indeed extraordinary.

(Please note that numerous former employees of this small college have successfully pursued relief for abuses of their rights, similar to those alleged in the above-reference whistleblower tort actions, via administrative complaints filed with the EEOC and Human Rights Commission. Documentation of these complaints/proceedings are to be found in NNMC files.)

In addition, cases brought against NNMC, on behalf of former employees (involving alleged violation of their rights by their labor unions), are also pending.

While the matters of tort liability and violation of the whistleblower statute would be settled by the conclusion of those state cases, the allegations by the respective plaintiffs are remarkably similar in that all of the plaintiffs in those cases allege specific misuse of public funds (including grants to the school by federal agencies) by NNMC officials and several of the allegations suggest the theft of college property.

Other allegations suggest attempts by college officials to engage in or solicit others to engage in violations of the law.

**We seek action by both the attorney general (investigations, civil and criminal) and the state auditor (investigations) into the financial transgressions alleged by these plaintiffs as well as suggestions of criminal activity as indicated in the complaints in the whistleblower cases as well as an assessment of any transgressions of the law by NNMC officials that a review of the documentation in the other cases/complaints by the OAG and OSA may reveal.**

Item 5. Has any criminal conduct occurred [extortion–30-16-9 (C) (D) NMSA 1978] by one or more members of the BOR in regard to the attempted/forced resignation of former BOR member Donald Martinez Jr. and has any other possible violation of the law occurred in regard to constitutional mandate regarding jurisdiction for removal of any BOR member.

(See attachments.)

**We seek action (criminal investigation and an opinion as requested by legislators) by the attorney general.**

Item 6. Has misuse of substantial public funds (possibly exceeding \$1,500,000) and/or execution of illegal contracts/procedures in the matter of the failed “dormitory project” promoted by the NNMC administration and BOR 2008-2014 occurred? Details and other documentary evidence related to this matter are memorialized/contained in NNMC files as well as in the case files in two state district court lawsuits--one settled and one pending:

D-117-CV-200800427 (Institutional Project Management v. NNMC)

D-117-CV-201500041 (NNMC v. Monument, LLC; counter petition by defendant Monument)

(In addition, see attachments with related data, see item below.)

Item 7. Has any unethical conduct/illegal activity occurred regarding the role of BOR Regent Kevin Powers, formerly director of RBC Capital Markets (financial advisors/bond underwriters) in the failed “dormitory project” pertinent to the role of RBCCM (see Institutional Project Management case referenced above) and the RBC Capital Markets/Monument LLC relationship?

Former RBCCM colleagues of Powers were active representatives of NNMC and its BOR before state agencies in the quest for action by those entities in support of the project. Additionally, Powers was employed as a House Ways and Means Committee majority staff member during the 2015 session of the Legislature while serving as a BOR member.

(See attachments, see item above.)

**We seek resolution of these interrelated issues referenced in items 6 & 7 above by both the attorney general (investigations and opinions as requested by legislators) and the state auditor (investigations).**

Item 8. Has the college violated agreements between it and state/federal agencies regarding the funding of recreational facilities at the campus of NNMC in El Rito—specifically the Matias L. Chacon Recreational Park and the nearby softball field (now closed)?

(See attachment.)

**We seek resolution of these matters by both the attorney general (investigations and opinions as requested by legislators) and the state auditor (investigations).**

Item 9. Would the use of public funds by NNMC to pay for legal representation of NNMC Vice President Ricky Serna in a civil matter (petition of a restraining order/alleged altercation at a restaurant) now pending in state district court, violate provisions of statutes law regarding misuse of public funds or the “anti-donation” clause of the state constitution?

The law firm representing the plaintiff (Ricky Serna) in this matter is representing NNMC in two of the whistleblower lawsuits mentioned above and is also representing NNMC in its lawsuit against Monument, LLC (counter-claim filed by the defendant), mentioned above. Ricky Serna is mentioned repeatedly in the filings of the whistleblower cases and would be a key witness (at trial or via deposition) in the Monument, LLC dispute.

The restraining case at issue (ultimately dismissed by District Judge Jennifer Attrep) is:

D-117-CV-201500158 (Ricky A. Serna v. Angelo D. Jacques)

An Espanola Police Department report, among the several attachments, may shed additional light in this matter although this police report is not included in the case record; it was not submitted to the court in conjunction with the various filings in this case by either counsel for the plaintiff or the defendant, but had the judge not dismissed the complaint the case counsel for the defendant would likely have introduced it as evidence.

(See attachments.)

**We seek resolution of this matter by both the attorney general (investigation and opinion as requested by legislators) and the state auditor (investigation).**

Item 10.

Are NNMC or any of its officers exposed to serious liability—civil/financial and/or criminal regarding civil rights violations on the part of the college, specifically the college’s suppression of First Amendment Rights held by the Northern New Mexico College Study Group, which operates an online news website (the college being the sole focus of coverage).

Acting on behalf of the college, a college vice president effected the takedown of the Study Group’s website by falsely claiming that the Study Group had violated non-existent copyrights purportedly owned by the college.

The Study Group was ultimately able to have its website restored intact, but only after the site was dark for over a month due to the college’s complaint and only after the Study Group invested considerable time and effort in preparing a legal analysis refuting the college’s spurious complaint.

**We seek resolution of this matter by both the attorney general (investigation and opinion as requested by legislators) and the state auditor (investigation).**

Item 11.

Have NNMC personnel engaged in any violations of the law—civil and/or criminal—regarding the “whistleblowing” notifications to state officials on the part of former college bookstore manager Jerome Williams who uncovered an incident of surreptitious entry into the bookstore by senior college officials (when the store was closed) and who left that college-operate business with merchandise in hand?

A video of this incident and additional information provided by Mr. Williams, we believe, may already be in the hands of officials at the state Higher Education department, the Office of the Governor, the Office of the Lt. Governor and the Office of the State Auditor.

Certain college officials subsequently obtained the forced resignation of Mr. Williams in retaliation for his whistleblowing and then smeared him with a report filed with a law enforcement agency claiming Mr. Williams had stolen a college computer. However, the police report indicates that the college declined to seek prosecution after initially seeking police involvement.

Developments in this matter are continuing.

(Please see attachments, including a research report by Flores, Arnold & Fiori and an Española Police Department report.)

**We seek resolution of this matter by both the attorney general (investigation and opinion as requested by legislators) and the state auditor (investigation).**

## **Summation**

The matters related above are merely some of the many issues of concern shared by friends, former and current faculty/staff and other community observer of the continuing turmoil at Northern New Mexico College.

The Sociedad Venceslao Jaramillo membership and associates are prepared to provide additional detailed/documentary information in this regard. Please contact Jake Arnold at Flores, Arnold & Fiori if such information is of interest.

We also suggest that interested parties also visit the website of the Northern New Mexico College Study Group. A few of the attachments to this “white paper” originate from postings at that website.

[www.NNMCStudyGroup.com](http://www.NNMCStudyGroup.com)